

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JUDGE SWEET

BROADCAST MUSIC, INC.; BEECHWOOD
MUSIC CORPORATION; SONGS OF
UNIVERSAL, INC.; KINGS ROAD MUSIC;
SONY/ATV SONGS LLC; GOLD HILL MUSIC,
INC.; HOUSE OF GAGA PUBLISHING LLC;
AND REDONE PRODUCTION LLC d/b/a
SONGS OF REDONE,

Plaintiffs,

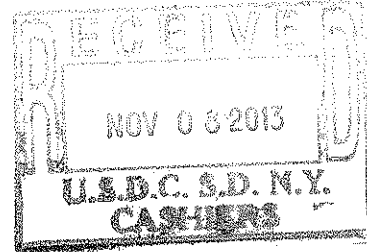
v.

GHM RESTAURANT, INC. d/b/a
O'FLANAGAN'S; BERNARD HAND, DAVID
MASSEY, and THOMAS MCGRATH, each,
individually,

Defendants.

13 CV 7988

CIVIL ACTION NO.:



VERIFIED COMPLAINT

Plaintiffs, by their undersigned attorneys, for their Complaint against Defendants, allege as follows:

JURISDICTION AND VENUE

1. This is an action for copyright infringement under the United States Copyright Act of 1976, as amended, 17 U.S.C. Sections 101 et seq. (the "Copyright Act"). This Court has jurisdiction pursuant to 28 U.S.C. Section 1338(a).

2. Venue is proper in this judicial district pursuant to 28 U.S.C. Section 1400(a).

THE PARTIES

3. Plaintiff Broadcast Music, Inc. ("BMI") is a corporation organized and existing under the laws of the State of New York. BMI's principal place of business is 7 World Trade Center, 250 Greenwich Street, New York, New York 10007. BMI has been granted the right to

license the public performance rights in approximately 7.5 million copyrighted musical compositions (the "BMI Repertoire"), including those which are alleged herein to have been infringed.

4. The Plaintiffs other than BMI are the owners of the copyrights in the musical compositions, which are the subject of this lawsuit. All Plaintiffs are joined pursuant to Fed. R. Civ. P. 17(a) and 19(a).

5. Plaintiff Beechwood Music Corporation is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

6. Plaintiff Songs of Universal, Inc. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

7. Plaintiff Kings Road Music is a sole proprietorship owned by Philip H. Gillin. This Plaintiff is the copyright owner of at least one of the songs in this matter.

8. Plaintiff Sony/ATV Songs LLC is a limited liability company. This Plaintiff is the copyright owner of at least one of the songs in this matter.

9. Plaintiff Gold Hill Music, Inc. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

10. Plaintiff House of Gaga Publishing, LLC is a limited liability company. This Plaintiff is the copyright owner of at least one of the songs in this matter.

11. Plaintiff Redone Production LLC is a limited liability company d/b/a Songs of RedOne. This Plaintiff is the copyright owner of at least one of the songs in this matter.

12. Defendant GHM Restaurant, Inc. is a corporation organized and existing under the laws of the state of New York, which operates, maintains and controls an establishment known as O'Flanagan's, located at 1215 First Avenue, New York, New York 10065-6801, in this district (the "Establishment").

13. In connection with the operation of the Establishment, Defendant GHM Restaurant, Inc. publicly performs musical compositions and/or causes musical compositions to be publicly performed.

14. Defendant GHM Restaurant, Inc. has a direct financial interest in the Establishment.

15. Defendant Bernard Hand is an officer of Defendant GHM Restaurant, Inc. with primary responsibility for the operation and management of that corporation and the Establishment.

16. Defendant Bernard Hand has the right and ability to supervise the activities of Defendant GHM Restaurant, Inc. and a direct financial interest in that corporation and the Establishment.

17. Defendant David Massey is an officer of Defendant GHM Restaurant, Inc. with primary responsibility for the operation and management of that corporation and the Establishment.

18. Defendant David Massey has the right and ability to supervise the activities of Defendant GHM Restaurant, Inc. and a direct financial interest in that corporation and the Establishment.

19. Defendant Thomas McGrath is an officer of Defendant GHM Restaurant, Inc. with primary responsibility for the operation and management of that corporation and the Establishment.

20. Defendant Thomas McGrath has the right and ability to supervise the activities of Defendant GHM Restaurant, Inc. and a direct financial interest in that corporation and the Establishment.

CLAIMS OF COPYRIGHT INFRINGEMENT

21. Plaintiffs repeat and reallege each of the allegations contained in paragraphs 1 through 20.

22. Plaintiffs allege five (5) claims of willful copyright infringement, based upon Defendants' unauthorized public performance of musical compositions from the BMI Repertoire.

All of the claims for copyright infringement joined in this Complaint are governed by the same legal rules and involve similar facts. Joinder of these claims will promote the convenient administration of justice and will avoid a multiplicity of separate, similar actions against Defendants.

23. Annexed to this Complaint as a schedule (the “Schedule”) and incorporated herein is a list identifying some of the many musical compositions whose copyrights were infringed by Defendants. The Schedule contains information on the five (5) claims of copyright infringement at issue in this action. Each numbered claim has the following eight lines of information (all references to “Lines” are lines on the Schedule): Line 1 providing the claim number; Line 2 listing the title of the musical composition related to that claim; Line 3 identifying the writer(s) of the musical composition; Line 4 identifying the publisher(s) of the musical composition and the plaintiff(s) in this action pursuing the claim at issue; Line 5 providing the date on which the copyright registration was issued for the musical composition; Line 6 indicating the copyright registration number(s) for the musical composition; Line 7 showing the date(s) of infringement; and Line 8 identifying the Establishment where the infringement occurred.

24. For each musical composition identified on the Schedule, the person(s) named on Line 3 was the creator of that musical composition.

25. For each work identified on the Schedule, on or about the date(s) indicated on Line 5, the publisher(s) named on Line 4 (including any predecessors in interest), complied in all respects with the requirements of the Copyright Act and received from the Register of Copyrights Certificates of Registration bearing the number(s) listed on Line 6.

26. For each work identified on the Schedule, on the date(s) listed on Line 7, Plaintiff BMI was (and still is) the licensor of the public performance rights in the musical composition identified on Line 2. For each work identified on the Schedule, on the date(s) listed on Line 7, the

Plaintiff(s) listed on Line 4 was (and still is) the owner of the copyright in the respective musical composition listed on Line 2.

27. For each work identified on the Schedule, on the date(s) listed on Line 7, Defendants publicly performed and/or caused to be publicly performed at the Establishment the musical composition identified on Line 2 without a license or permission to do so. Thus, Defendants have committed copyright infringement.

28. The specific acts of copyright infringement alleged in the Complaint, as well as Defendants' entire course of conduct, have caused and are causing Plaintiffs great and incalculable damage. By continuing to provide unauthorized public performances of works in the BMI Repertoire at the Establishment, Defendants threaten to continue committing copyright infringement. Unless this Court restrains Defendants from committing further acts of copyright infringement, Plaintiffs will suffer irreparable injury for which they have no adequate remedy at law.

WHEREFORE, Plaintiffs pray that:

(I) Defendants, their agents, servants, employees, and all persons acting under their permission and authority, be enjoined and restrained from infringing, in any manner, the copyrighted musical compositions licensed by BMI, pursuant to 17 U.S.C. Section 502;

(II) Defendants be ordered to pay statutory damages, pursuant to 17 U.S.C. Section 504(c);

(III) Defendants be ordered to pay costs, including a reasonable attorney's fee, pursuant to 17 U.S.C. Section 505; and

(IV) Plaintiffs be granted such other and further relief as is just and equitable.

Dated: November 8, 2013

Respectfully submitted,

GIBBONS, P.C.

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Attorneys for Plaintiffs

VERIFICATION

[illegible]

Lawrence E. Stevens, being duly sworn, deposes and says:

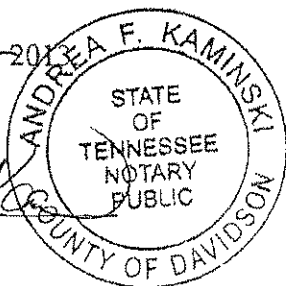
I am an Assistant Vice President, Licensing, for Plaintiff Broadcast Music, Inc. I have read the foregoing Verified Complaint and know the contents thereof; the same is true to my knowledge, except as to matters therein stated to be alleged upon information and belief, and as to those matters, I believe them to be true.

Lawrence E. Stevens

Sworn to before me this

4th day of November 2013

Andrew K.
Notary Public



My Comm. Exp. May 8, 2017

Schedule

Line 1	Claim No.	1
Line 2	Musical Composition	Another One Bites The Dust
Line 3	Writer(s)	John Deacon
Line 4	Publisher Plaintiff(s)	Beechwood Music Corporation
Line 5	Date(s) of Registration	7/3/80
Line 6	Registration No(s).	PA 73-494
Line 7	Date(s) of Infringement	09/07/2013
Line 8	Place of Infringement	O'Flanagan's

Line 1	Claim No.	2
Line 2	Musical Composition	Magic Carpet Ride
Line 3	Writer(s)	John Kay; Rushton Moreve
Line 4	Publisher Plaintiff(s)	Songs of Universal, Inc; Philip H. Gillin, an individual d/b/a Kings Road Music
Line 5	Date(s) of Registration	10/21/68
Line 6	Registration No(s).	Eu 83717
Line 7	Date(s) of Infringement	09/07/2013
Line 8	Place of Infringement	O'Flanagan's

Line 1	Claim No.	3
Line 2	Musical Composition	Just Can't Get Enough
Line 3	Writer(s)	Vincent John Martin a/k/a Vince Clarke
Line 4	Publisher Plaintiff(s)	Sony/ATV Songs LLC
Line 5	Date(s) of Registration	5/14/82
Line 6	Registration No(s).	PA 137-992
Line 7	Date(s) of Infringement	09/08/2013
Line 8	Place of Infringement	O'Flanagan's

Line 1	Claim No.	4
Line 2	Musical Composition	Love The One You're With
Line 3	Writer(s)	Stephen Stills
Line 4	Publisher Plaintiff(s)	Gold Hill Music, Inc.
Line 5	Date(s) of Registration	1/4/99 1/6/98 7/11/74 2/28/70
Line 6	Registration No(s).	RE 797-090 RE 775-536 Ep 326678 Eu 224756
Line 7	Date(s) of Infringement	09/07/2013
Line 8	Place of Infringement	O'Flanagan's

Line 1	Claim No.	5
Line 2	Musical Composition	Bad Romance
Line 3	Writer(s)	Stefani Germanotta a/k/a Lady Gaga; Nadir Khayat a/k/a RedOne
Line 4	Publisher Plaintiff(s)	Sony/ATV Songs LLC; House Of Gaga Publishing LLC.; Redone Production LLC d/b/a Songs Of RedOne
Line 5	Date(s) of Registration	7/21/11
Line 6	Registration No(s).	PA 1-751-974
Line 7	Date(s) of Infringement	09/08/2013
Line 8	Place of Infringement	O'Flanagan's
